

Supreme Court of Kentucky

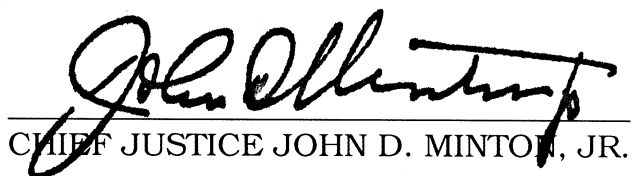
ORDER

IN RE: ORDER APPROVING THE FAMILY LAW RULES FOR THE 21ST DISTRICT COURTS, BATH, MENIFEE, MONTGOMERY, AND ROWAN COUNTIES

Upon recommendation of the Judges of the 21st Judicial District, and being otherwise sufficiently advised,

The Family Law Rules for the 21st District, Bath, Menifee, Montgomery, and Rowan counties, are hereby approved. This order shall be effective as of the date of this Order, and shall remain in effect until further orders of this court.

Entered this the 4th day of June 2012.


CHIEF JUSTICE JOHN D. MINTON, JR.

**COMMONWEALTH OF KENTUCKY
21ST JUDICIAL DISTRICT
BATH, MENIFEE, MONTGOMERY
AND ROWAN COUNTIES**

**FAMILY LAW RULES OF PRACTICE AND PROCEDURE
FOR DISTRICT COURT**

RULE 1. INTRODUCTION / ADMINISTRATIVE PROCEDURE

101. INTRODUCTION/PREFACE

The following Rules of Practice and Procedure are adopted pursuant to SCR 1.040 (3)(a) and under the direction of the Kentucky Supreme regarding the new Family Court Rules of Procedure and Practice (FCRPP) in order to facilitate the administration of justice in the Courts of the 21st Judicial District. These rules are designed to inform the public concerning the operation of the Court system as well as to assist practitioners in preparation and presentation of cases. Additional rules of practice may be adopted as needed from time to time in the discretion of this Court and the foregoing rules may be amended, deleted or added as needed and with approval from the Kentucky Supreme Court.

102. EFFECTIVE DATE.

The effective date of these rules shall be upon approval of the Kentucky Supreme Court.

103. CITATION

These rules shall be cited as "21DLR."

104. HOLIDAY SCHEDULE

The Court will observe the AOC holiday schedule and no sessions will be held on those dates designated as state holidays. A list of such holidays will be available in the Clerk's Office upon request.

105. JUVENILE DIVISION

All proceedings in the Juvenile Division shall be conducted pursuant to the Unified Juvenile Code, KRS Chapters 600 to 645, as amended, and the FCRPP.

RULE 2. COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING

201. COURTS OF THE 21ST JUDICIAL DISTRICT

There are four (4) District Courts in the 21st Judicial District: Bath District Court, Menifee District Court, Montgomery District Court, and Rowan District Court. Bath District Court holds session at 19 East Main Street, Bath County Courthouse Annex, Owingsville, Kentucky. Menifee District Court holds session at 12 Main Street, Menifee County Courthouse, First Floor, Frenchburg, Kentucky. Montgomery District Court holds session at 1 Court Street, Montgomery County Courthouse, Mt. Sterling, Kentucky. Rowan District Court holds session at 700 West Main Street, Rowan County Judicial Center, Morehead, Kentucky.

202. COURT SESSIONS

A. BATH COUNTY

The schedule for items that would fall within the purview of the family law rules for Bath County are as follows::

Domestic Violence Hearings shall take place every other Tuesday at 1:00 p. m. and from time to time can be held on consecutive Tuesdays depending on how hearing dates fall within the fourteen (14) day rule consistent with the filing of the emergency protective order. All parties will receive notice of the domestic violence hearing as indicated on the emergency protective order.

Child support and paternity issues typically take place at 1:30 p. m. every other Tuesday and juvenile matters are heard at 2:00 p. m. every other Tuesday. However, these times are subject to change with respect to status, public and temporary removal hearings due to time constraints pursuant to statute. Therefore, it is possible that certain matters will be heard on Tuesdays not designated as juvenile days when necessary. All parties will receive notice of these hearings pursuant to the status and/or public offense documents or the emergency custody order.

B. MONTGOMERY COUNTY

The schedule for the items that would fall within the purview of the family law rules for Montgomery County is as follows:

Domestic Violence Hearings typically take place on Mondays at 1:30 p. m. If a jury trial is scheduled on the same date as the domestic violence hearing then the domestic violence hearing shall take place immediately prior to trial or shall be moved with proper notice to all parties.

All juvenile matters are heard at 9:00 a. m. on each Wednesday in Montgomery District Court which includes all matters that fall under juvenile case numbers. This is subject to change due to time constraints concerning juvenile matters after proper notice to all parties.

C. MENIFEE COUNTY

The schedule for items that fall within the purview of the family law rules for Meniffee County is as follows:

Domestic violence hearings typically take place each and every Tuesday at 9:30 a.m. in Meniffee District Court.

All juvenile matters are heard at 1:00 p.m. on the 1st and 3rd Tuesday of each month. However, these times are subject to change with respect to status, public and temporary removal hearings due to the time constraints pursuant to statute. All parties will receive notice of these hearings pursuant to the status and/or public offense documents or the emergency custody order.

D. ROWAN COUNTY

The schedule for items that fall within the purview of the family law rules for Rowan County is as follows:

Domestic Violence hearings are scheduled at 1:00 p. m. each and every Monday in Rowan District Court.

All Juvenile matters are heard at 1:00 p. m. on the 2nd and 4th Wednesday of each month and at 1:30 p.m. on Mondays if assigned to another division. Any motions in Juvenile cases are heard at 1:00 p. m. on the 1st Thursday of each month. All Juvenile child support cases are heard at 9:00 a. m. on the 1st Thursday of each month. However, these times are subject to change with respect to status, public and temporary removal hearings due to the time constraints pursuant to statute. All parties will receive notice of these hearings pursuant to the status and/or public offense documents or the emergency custody order.

203. JUVENILE MOTIONS

To assist the Clerk and the Court in preparation, all motions must be in writing and filed no later than forty-eight (48) hours prior to the scheduled hearing, excluding weekends and holidays if the service is made in person. If copies to opposing counsel and the Court are served by mail, said motion must be filed no later than five (5) days prior to the date of the scheduled hearing. Copies of all motions filed shall be served or mailed to the Court. Counsel may set motions to be heard on the regular hearing docket of their respective Court or in the case of lengthy motions, scheduling same with the Court.

204. COPIES OF JUVENILE MOTIONS TO COURT

Counsel shall mail, e-mail or hand-deliver a copy of each written motion to the Court when the original is filed with the Clerk's Office. This will allow the Court to review all relevant motions prior to the hearing.

RULE 3. DOMESTIC VIOLENCE PROTOCOL AND 24-HOUR ACCESS POLICY

301. See Appendix A which is attached hereto and incorporated herein as if set out in full for the Twenty-Four Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol adopted by both the 21st Circuit and District Courts.

302. Any and all Emergency Protective Orders shall be filed immediately at the relevant Circuit Clerk's Office on the next available date when this office is open for business no later than noon on that date.

RULE 4. PATERNITY

401. Motions for Paternity, Child Support, Custody or Default Judgments shall be set by the County Attorney or relevant party on the Court's regular juvenile docket in that particular county. All relevant parties shall receive notice of the proceedings as well as details concerning the reason for the Motion.

402. FILING FEES

Pursuant to FCRPP 14(1), a \$50.00 fee shall be paid by the movant in paternity cases reopened after six (6) months from the entry of the paternity judgment for the

purpose of modifying any support, custody or visitation ordered. This does not apply to cases or movants proceeding in forma pauperis who qualify.

403. For statewide uniform rules on paternity see FCRPP 14 and 15.

RULE 5. DEPENDENCY NEGLECT AND ABUSE

501. PETITIONS

A. All petitions shall be filed in accordance with FCRPP 20. All petitions shall then be submitted to the County Attorney and/or Assistant County Attorney in the appropriate county, who shall check the petition for legal sufficiency. If the petition is rejected by the County Attorney and/or Assistant County Attorney, it shall be submitted to a District Judge for determination of legal sufficiency. If the Judge determines that the petition fails to state grounds for action pursuant to KRS Chapter 620, the petition shall be dismissed. If the petition is approved, the County Attorney or Assistant County Attorney or District Judge, as appropriate, shall initial the petition for filing. A copy shall be distributed to the County Attorney or Assistant County Attorney assigned to prosecute dependency actions and the original shall be filed with the Office of the appropriate Circuit Court Clerk in the 21st Judicial District.

1. Any petition filed with this Court shall be filed on the appropriate AOC forms and shall include the factual allegations relied upon in asserting the Court's jurisdiction, as well as full information concerning the child's parents and their address(es). The petitioner shall make diligent efforts to locate the child's parents.

502. PROCEDURES FOR EMERGENCY CUSTODY ORDERS

In all counties of the 21st Judicial District in order to obtain an emergency custody order as set forth in FCRPP 19, the following must take place:

- A. **During normal working hours, Monday through Friday, excluding holidays**, the Cabinet for Health and Family Services (CHFS) social worker or any interested party seeking an Emergency Custody Order (ECO), shall come to the CHFS office and/or the designated County Attorney's Office, for

assistance in obtaining an Emergency Custody Order (ECO) or, to the Office of the Circuit Court Clerk in the respective county within the 21st Judicial District who will contact the judge for consideration on whether to issue an ECO. Any such interested party shall comply with the requirements of FCRPP 19 when making a request for an ECO. If an ECO is issued and a CHFS social worker is not involved in this process, a copy shall be provided to the person seeking the ECO prior to leaving the respective Circuit Court Clerk's Office, as well as to CHFS. The original ECO shall remain with the appropriate Circuit Court Clerk's Office.

- B. After working hours Monday through Friday and on weekends and holidays,** the on-call District Court Judge or trial commissioner shall be contacted by CHFS, the County Attorney/Assistant County Attorney or law enforcement, as applicable, for consideration on the issuance of an ECO. Any party requesting issuance of an ECO shall comply with the requirements of FCRPP 19 when making said request.

503. THE EFFECTS OF SERVICE ON ONLY ONE PARENT/PERSON EXERCISING CUSTODIAL CONTROL OR SUPERVISION

The Judge may permit a temporary removal hearing or the adjudicatory hearing to go forward when the non-custodial parent has not been served in accordance with FCRPP 18(1) if it is established on the record that CHFS has made diligent efforts to serve all other parties. The CHFS shall make continuing diligent efforts after the hearing to locate and notify all persons who are not served.

504. TIME FOR TEMPORARY REMOVAL HEARING

The temporary removal hearing shall be held according to the following guidelines:

- A. The temporary removal hearing shall be scheduled on the juvenile docket of the designated county if that docket will be held within seventy-two (72) hours, excluding holidays and weekends, of the issuance of an ECO. If the designated date and time does not fall within seventy-two (72) hours, a temporary removal hearing will be scheduled within seventy-two (72) hours of the issuance of the ECO at the discretion of the Court. The Court will

make every attempt to schedule the hearing toward the end of the seventy-two (72) hours to allow time for service to be attempted.

- B. The temporary removal hearing shall be held no earlier than the day following the filing of the petition to have time for service to be attempted.

505. GUARDIANS AD LITEM AND PARENTS' ATTORNEYS

Upon receipt of the original juvenile documents the Juvenile Clerk shall appoint a Guardian ad litem for the children and counsel for the person(s) from whom the custody of the child was removed. The Juvenile Clerk shall notify the appointed attorneys of the date for the temporary removal hearing, and provide them copies of all relevant documents.

The Guardian ad litem shall be formally appointed by the court, as well as the parent(s) attorney if the parent qualifies as an indigent, and representation shall continue through all stages of the dependency, neglect and abuse process. If any attorney wishes to withdraw, notice must be served upon the client and parties pursuant to the Rules of Civil Procedure and a motion to withdraw must be filed pursuant to FCRPP 26. If the case proceeds to Circuit Court for termination of parental rights and subsequent adoption, new appointment of counsel must be made. If possible, for continuity and in the best interest of the child, absent a showing otherwise, the same GAL and parent's attorney in District Court shall be appointed in the Circuit Court proceedings.

506. RECORDS AND TRANSCRIPTS

A videotaped record of all proceedings shall be kept and a copy shall be available to the parties and their counsel upon request in accordance with the provisions of FCRPP 27.

507. DISPOSITIONAL HEARING

At the Dispositional Hearing, CHFS shall provide the Court and all Attorneys of record with the information required pursuant to FCRPP 28, and any dispositional report shall be filed and provided to the court and all attorneys of record at least three (3) days prior to a disposition hearing, by completing form DNA-12. In addition, if the siblings have been separated, CHFS shall explain the reason for the separation.

RULE 6. STATUS OFFENSES / PUBLIC OFFENSES

601. STATUS OFFENSES

Pursuant to the Kentucky Revised Statutes and FCRPP 37 through FCRPP 44, if a juvenile is charged with a status offense and is removed from the home, a hearing shall take place within twenty-four (24) hours of the entry of the removal, excluding weekends and holidays. Upon notification from the Court Designated Worker or the County Attorney, the Court will place the matter (including any detention hearing) on the next relevant Court date. However, the Court will make exceptions and place said hearing at a designated time if it does not fall on a regular Court date. This designation shall fall within a twenty-four (24) hour time period with the exceptions as previously addressed. The Court Designated Worker and all other relevant agencies shall make every effort to give the custodial parent notice of the hearing.

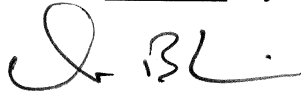
602. PUBLIC OFFENSES

All protocols with regard to public offenses shall be the same as addressed in the status offense section except that the Court shall have forty-eight (48) hours, exclusive of weekends and holidays, to schedule a hearing.

RULE 7. MISCELLANEOUS RULES RELATING TO FAMILY LAW PRACTICE

701. All parties before the Court regarding custody, shared parenting, visitation and support shall abide by the general provisions in FCRPP 6, FCRPP 7, FCRPP 8 and FCRPP 9.

Approved this the 30th day of April, 2012



Judge Don Blair, Division II
21st Judicial District



Judge William W. Roberts, Division I
21st Judicial District

**APPENDIX A
TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY
PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION
DOMESTIC VIOLENCE PROTOCOL
21st JUDICIAL CIRCUIT AND DISTRICT
BATH, MENIFEE, MONTGOMERY & ROWAN COUNTIES**

Pursuant to KRS 403.735, and in compliance with the Family Court Rules of Procedure and Practice (FCRPP) Section IV, the local domestic violence protocol is established to ensure twenty-four (24) hours accessibility to emergency protection orders to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the Circuit and District Courts.

I. UNIFORM PROTOCOL FOR PROCESSING CASES

- A. Circuit Court Clerks shall process domestic violence cases in accordance with procedures set forth in the “Domestic Violence Proceedings” section of the Kentucky Circuit Court Clerk’s Manual.
- B. All cases will be assigned a (D) case number with the appropriate trailer number within the Court case management system and may not be consolidated with any other case type.
- C. Domestic Violence matters may be reassigned from the District Court Division to Circuit Court when there is a dissolution/custody proceeding pending.
- D. Domestic Violence cases are civil matters within the purview of CR 41.01. Therefore, the 21st Judicial Circuit and District does not have a blanket “no-drop” policy.
- E. Domestic violence cases may be reassigned or transferred to another Circuit Court if there is a current dissolution/custody proceeding in that Circuit. Consistent with FCRPP 12, when a case is transferred to another Circuit due to a pending dissolution or custody matter, an emergency protective order shall continue and the summons shall be reissued by the initiating Court, pursuant to KRS 403.740 (4), for a period to not exceed fourteen (14) days if service has not been made on the adverse party by the date of transfer, or as the Court determines is necessary for the protection of the petitioner. Thereafter, the reissuance of the summons shall occur as needed by the District Court if it has not been assigned to the Circuit Court or by the Circuit Court if the transfer has already occurred.

II. TWENTY-FOUR HOUR ACCESSIBILITY

- A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **during** regular business hours:

The Circuit Clerk's Office in the county of which the petitioner is requesting it to be heard. The Court hereby grants each Circuit Court Clerk's Office in the 21st Judicial District the authority to take domestic violence petitions and administer oaths of the petitioners during their regular business hours.

B. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **after** regular business hours and weekends:

1. **BATH COUNTY** - Any Ex parte Emergency Protective Orders that take place after hours shall be executed in Bath County at the Bath County Dispatch Office. The Court hereby grants the employees of the Bath County Dispatch Office the authority to take Domestic Violence Petitions and administer the oath of said petitions to the petitioner.
2. **MONTGOMERY COUNTY** - Any Ex parte Emergency Protective Orders that take place after hours shall be executed in Montgomery County at the Montgomery County Dispatch Office. The Court hereby grants the employees of the Montgomery County Dispatch Office the authority to take Domestic Violence Petitions and administer the oath of said petitions to the petitioners.
3. **ROWAN COUNTY** - Any Ex parte Emergency Protective Orders that take place after hours shall be executed in Rowan County at the Rowan County Domestic Violence Shelter and shall be immediately faxed to the Morehead City Police from the Domestic Violence Shelter once executed and signed by the Judge. The Court hereby grants the employees of the Rowan County Domestic Violence Shelter the authority to take Domestic Violence Petitions and administer the oath of said petitions to the petitioners.
4. **MENIFEE COUNTY** - Any Ex parte Emergency Protective Orders that take place after hours shall be executed in Meniffee County at the Meniffee County Dispatch Office. The Court hereby grants the employees of the Meniffee County Dispatch Office the authority to take Domestic Violence Petitions and administer said oath of said petitions to the petitioners.

C. Upon receipt of a petition **during regular business hours**, the relevant Clerks of the 21st Judicial District shall present the petition to the District Judges, Circuit Judges and/or Trial Commissioner within one hour of its presentation to them unless it is impossible due to the unavailability of a Judge or Trial Commissioner.

- D. Upon the receipt of the petition **after regular business hours**, the authorized agencies as addressed herein shall present the petition to the District Judges, Circuit Judges and/or Trial Commissioner within one hour of its presentation to them unless it is impossible due to the unavailability of a Judge or Trial Commissioner.
- E. The schedule for **DOMESTIC VIOLENCE hearings is as follows:**

DISTRICT COURT

1. **BATH COUNTY** - In Bath District Court on every other Tuesday at 1:00 p. m. and can at times be held each and every Tuesday depending on how hearing dates fall within the fourteen (14) day rule pursuant to the filing of the Emergency Protective Order. All parties will receive notice of the domestic violence hearing as indicated on the Emergency Protective Order.
2. **MONTGOMERY COUNTY** - Domestic violence hearings shall take place every Monday at 1:30 p. m. in Montgomery District Court and could be held on a different date depending on how the hearing dates fall within the fourteen (14) day rule pursuant to the filing of the Emergency Protective Order. All parties will receive notice of the domestic violence hearing as indicated on the Emergency Protective Order.
3. **ROWAN COUNTY** - Domestic violence hearings shall take place every Monday at 1:00 p. m. in Rowan District Court and could be held on a different date depending on how the hearing dates fall within the fourteen (14) day rule pursuant to the filing of the Emergency Protective Order. All parties will receive notice of the domestic violence hearing as indicated on the Emergency Protective Order.
4. **MENIFEE COUNTY** - Domestic violence hearings shall take place every Tuesday at 9:30 a. m. in Menifee District Court. All parties will receive notice of domestic violence hearing as indicated on the Emergency Protective Order.

CIRCUIT COURT

1. **DIVISION I**

- a. **MENIFEE CIRCUIT COURT** – Domestic Violence hearings shall be heard on the fourth Thursday of each month at 11:00 a.m.
- b. **BATH CIRCUIT COURT** - Domestic Violence hearings shall be heard on the third Thursday of each month at 11:00 a.m.

c. **MONTGOMERY DOMESTIC COURT** - Domestic Violence hearings shall be heard on the first Friday of each month at 11:00 a.m.

d. **ROWAN DOMESTIC COURT** - Domestic Violence hearings shall be heard on the second Friday of each month. at 11:00 a.m.

2. **DIVISION II**

b. **MENIFEE CIRCUIT COURT** - Domestic Violence hearings shall be heard on the second Thursday of each month at 11:00 a.m.

c. **BATH CIRCUIT COURT** - Domestic Violence hearings shall be heard on the first Thursday of each month at 11:00 a.m.

d. **MONTGOMERY DOMESTIC COURT** - Domestic Violence hearings shall be heard on the third Friday of each month at 11:00 a.m.

e. **ROWAN DOMESTIC COURT** - Domestic Violence hearings shall be heard on the fourth Friday of each month at 11:00 a.m.

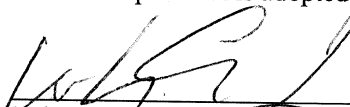
II. CONTEMPT PROCEEDINGS

Pursuant to KRS 403.760 and FCRPP 11 civil and criminal proceedings for a violation of a protective order are to take place and be initiated as follows:

- A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.
- B. Petitioners seeking to initiate contempt proceedings should follow the protocol as addressed above when filing Emergency Protective Orders during business hours and filing Emergency Protective Orders after working hours.
- C. Pursuant to FCRPP 11(1), no petitioner shall be held in contempt for failure to appear at a Domestic Violence hearing or failing to prosecute a civil or criminal contempt violation of a protective order except for a good cause shown on the record. Failure to appear may result in denial of the petition.
- D. Subject to FCRPP 11(2), when the Court conducts contempt proceedings in Domestic Violence actions, the party(ies) who are subject to contempt shall be represented by counsel, unless waived, and an attorney shall be appointed by the Court if the party qualifies as indigent.


All general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

The above protocol is adopted by all judges in the circuit/district:




Judge William E. Lane, Division I
21st Judicial Circuit

5-29-12
Date




Judge Don Blair, Division II
21st Judicial District

4-24-12
Date



Judge Beth Lewis Maze, Division II
21st Judicial Circuit

4/30/12
Date



Judge William W. Roberts, Division I
21st Judicial District

04/16/2012
Date